

City of Lafayette Staff Report

For: City Council

By: Christine Sinnette, Senior Planner

Date Written: January 2, 2008

Meeting Date: January 14, 2008

Subject: Consideration of an appeal by Anna Maria Dettmer of the Planning Commission's decision to rescind their previous direction to staff to prepare conceptual design studies for two properties located at 3233 Deer Hill Road (APN 323-150-028) and 1175 Pleasant Hill Road (APN 232-150-027)

Background

Planning Division staff have been working on City-initiated General Plan and zoning amendments (GP03-04 and RZ02-04) for seven properties in the Eastern Deer Hill Road area (see Attachment 1 – Study Area Map). Attachment 2 contains a chronology of the City's actions related to the Eastern Deer Hill Road area from April 19, 2001 to November 15, 2007. At their meeting of November 16, 2006, the Planning Commission directed staff to prepare a scope of work for a contract consultant to prepare conceptual bulk and mass design studies for the two properties that front on Pleasant Hill Road. Staff subsequently received a scope of work from Design, Community & Environment (DC&E) to prepare the studies. Prior to entering into a contract with DC&E, it was suggested at a joint City Council/Planning Commission/Design Review Commission meeting on September 24, 2007, that the Planning Commission review the scope of work prior to moving forward with the design studies.

The DC&E proposal was reviewed by the Planning Commission at their meeting of November 15, 2007 (see Attachment 3). By a vote of 5-0 with two members absent, the Commission decided to rescind their previous direction to staff to have design studies prepared and to continue processing GP03-04/RZ02-04. Staff indicated that a public hearing would be scheduled for GP03-04/RZ02-04 with the project description and two options as previously described and the average slope analysis so the Commission could decide on the final project description and forward the applications to the City Council. See Attachment 4 – Planning Commission minutes.

An appeal of the Planning Commission's decision to rescind preparation of the design studies was timely filed by Martin Lysons of Gagen McCoy on behalf of their client, Anna Maria Dettmer. Ms. Dettmer (aka AMD Family Trust) is the owner of the two subject properties as well as two others in the Eastern Deer Hill Road area. The grounds for the appeal are, 1) conceptual studies are necessary before any zoning decision can be made and would support General Plan Program LU-13.2.2 for preparation of an Eastern Deer Hill Road Specific Plan, and 2) the Commission considered specific zoning issues without proper notice in violation of the Brown Act. See Attachment 5 – Letter from Gagen McCoy.

Staff Comments

In his letter, the appellant states that, "The Commission previously acknowledged that additional information was necessary to analyze the opportunities presented by the AMD parcels. By rescinding this

request for additional study, the Commission deprives itself of a vital tool for analyzing all of the development opportunities available to it. These studies would have allayed concerns (to a degree) that the City was ignoring a general plan mandate for a specific plan and for 'careful and detailed analysis of all the opportunities and constraints that will form the basis of future land use decisions.' (See General Plan at p. I-23)"

As can be seen in the attached chronology, the Eastern Deer Hill area has been the subject of discussion for over five years. In February 2003, the City Council voted not to have a specific plan prepared and ultimately directed staff to initiate a General Plan amendment for seven properties in the Eastern Deer Hill area and that parcels with APO zoning be changed to residential zoning. Any discussion of preparation of a specific plan is moot given the Council's direction.

The appellant also states that, "the [agenda] item title and description give no indication that the Commission would consider and make decisions pertaining to zoning and land use on the AMD parcels...the elimination of mixed-use zoning from consideration was clearly beyond the scope of the hearing as agendized...This is a clear violation of the spirit and intent of the Brown Act."

Regarding a violation of the Brown Act, review of DC&E's scope of work by the Planning Commission was considered an administrative task by staff and was not agendized as a public hearing for GP03-04/RZ02-04. However, it was agendized and described pursuant to the Brown Act. Since the Planning Commission was not considering the merits of, or taking any action on, GP03-04/RZ02-04 mailed public notice was not provided although copies of the agenda and staff report for the November 15th meeting were sent to Ms. Dettmer and her representatives Allan Moore and Mike Henn. The agenda and staff report described the preparation of conceptual administrative design studies upon which the Planning Commission took action and Mr. Henn spoke at the Planning Commission meeting. However, since this appeal is a de novo matter, public notice of this hearing has been provided.

The appellant points out in his letter that by rescinding their request for design studies, the Commission deprives itself of a vital tool for analyzing all of the development opportunities available to it and that they have eliminated mixed-use zoning from consideration.

Mixed-use zoning for the study area has never been seriously considered by the Planning Commission. Since initiated in 2004, the project descriptions for GP03-04/RZ02-04 have not changed and continue only to address potential changes to residential designations as described below.

GP03-04, CITY OF LAFAYETTE (APPLICANT): Amendment to General Plan Map I-1 to reclassify three properties (APN 232-140-014, 232-150-027, and 232-150-028) located on Deer Hill and Pleasant Hill roads from Administrative/Professional/Office/Multifamily Residential to Rural Residential Single Family and/or Low Density Single Family. The Planning Commission may also consider an amendment to General Plan Map I-1 to reclassify four properties (APN 232-140-004, 232-140-010, 232-140-016, and 232-150-021) located on Deer Hill and Pleasant Hill roads from Low Density Single Family Residential to Rural Residential Single Family.

RZ02-04, CITY OF LAFAYETTE (APPLICANT): Change of zoning designation for three properties (APN 232-140-014, 232-150-027, and 232-150-028) located on Deer Hill and Pleasant Hill roads from APO to L-R-10 and/or R-20. The Planning Commission may also consider rezoning four properties (APN 232-140-004, 232-140-010, 232-140-016, and 232-150-021) located on Deer Hill and Pleasant Hill roads from R-20 to L-R-10.

When the Planning Commission began deliberations on GP03-04/RZ02-04, they decided that although a specific plan could not be prepared, an opportunities and constraints analysis (OCA) would help them better understand the environmental and regulatory factors affecting the study area. The OCA was completed and reviewed by the Planning Commission and staff again requested that the Commission decide on the final project description. The Commission voted to continue further discussion on GP03-04/RZ02-04 to allow staff to provide information related to a scope of work and estimated cost for a consulting civil engineer to calculate the average slope of properties in the study area and a scope of work for conceptual designs for parcels 27 and 28 (1175 Pleasant Hill Road and 3233 Deer Hill Road, respectively). The purpose of the design study was to show where buildable areas could be and the holding capacity (density) based on conformance with hillside development standards, visibility and impacts on traffic and circulation. When staff returned with a scope of work for the studies which included a number of residential, office, and institutional scenarios, it was only to provide a focus for the design consultant's site planning efforts and bulk and mass studies and not direction to review specific land uses.

During their November 15th meeting, the Commission made several points in support of rescinding the studies. It is not the purpose of the Planning Commission to design projects and is not within their scope to do so. They no longer saw a point in using City money to prepare design and development scenarios for private property. The Commission should follow the direction of the City Council to propose residential General Plan and zoning designations for the properties zoned APO. If the City Council approves the General Plan and zoning changes, it does not preclude the property owners from submitting development proposals which the City might find appropriate in the future.

In conclusion, the grounds for the appeal are without merit and should be denied. By rescinding their request for design studies, the Planning Commission did not consider or make any decisions on GP03-04/RZ02-04. They only decided that it is not the purpose or responsibility of the Planning Commission to prepare design and development scenarios for private property. The merits of GP03-04/RZ02-04 will be reviewed at future public hearings where the affected property owners and public can provide testimony and comments.

Staff Recommendation

Staff recommends that the City Council deny the appeal and uphold the Planning Commission's decision to rescind preparation of conceptual design studies.

Attachments

1. Eastern Deer Hill Road Parcels and Ownership
2. Background Chronology for Eastern Deer Hill Road and GP03-04/RZ02-04
3. Staff Report from the Planning Commission Meeting of November 15, 2007
4. Draft Minutes of Planning Commission Meeting of November 15, 2007
5. Appeal Letter from Gagen McCoy, dated November 21, 2007

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

In the Matter of:

An appeal by Anna Maria Dettmer of the)
Planning Commission's decision to)
rescind preparation of conceptual design)
studies for two properties located at 3233)
Deer Hill Road (APN 323-150-028) and)
1175 Pleasant Hill Road (APN 232-150-027))
_____)

Resolution No. 2008-01

RECITALS

- A. On August 11, 2003, the City Council directed Planning Services Division staff to initiate a General Plan amendment for seven properties in the Eastern Deer Hill Road area and to initiate rezoning of three parcels (APN 232-140-014, 232-150-027, and 232-150-028) with a current zoning designation of APO – Administrative/Professional/Office/Multi-family Residential to residential zoning.
- B. As directed by the City Council, Planning Services Division staff initiated GP03-04 and RZ02-04 and public hearings before the Planning Commission were held on November 18, 2004, January 6, 2005, February 3, 2005, September 7, 2006, October 19, 2006, and November 16, 2006.
- C. At their meeting of November 16, 2006, the Planning Commission directed staff to proceed with a scope of work for preparation of conceptual design studies for parcels 27 and 28 (1175 Pleasant Hill Road and 3233 Deer Hill Road, respectively), including bulk and mass studies and circulation and traffic constraints.
- D. Planning Services Division staff prepared the scope of work and presented it to the Planning Commission at their meeting of November 15, 2007. By a vote of 5-0 with two members absent, the Planning Commission voted to rescind its previous direction to staff to prepare conceptual design studies. In support of rescinding the studies, the Planning Commission stated that it is not the purpose of the Planning Commission to design projects and it is not within their scope to do so. It is not appropriate to use limited City money and resources to prepare design and development scenarios for private property.
- E. On November 21, 2007, an appeal of the Planning Commission's decision to rescind preparation of the design studies was timely filed by Martin Lysons of Gagen McCoy on behalf of Anna Maria Dettmer.

Now, therefore, the City Council of the City of Lafayette finds and determines as follows:

1. All the facts contained in the staff report for the meeting of January 14, 2008 are hereby adopted as the Council's own findings of fact and incorporated into this resolution by reference.
2. The City Council finds that it is not appropriate to use limited City money and resources to prepare design and development scenarios for private property and that the Planning Commission should continue with its review of GP03-04 and RZ02-04.
3. The City Council denies the appeal by Martin Lysons on behalf of Anna Maria Dettmer and upholds the Planning Commission's decision to rescind preparation of conceptual design studies for two properties located at 3233 Deer Hill Road (APN 323-150-028) and 1175 Pleasant Hill Road (APN 232-150-027).

PASSED AND ADOPTED by the City Council of the City of Lafayette at a regular meeting held on January 14, 2008 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

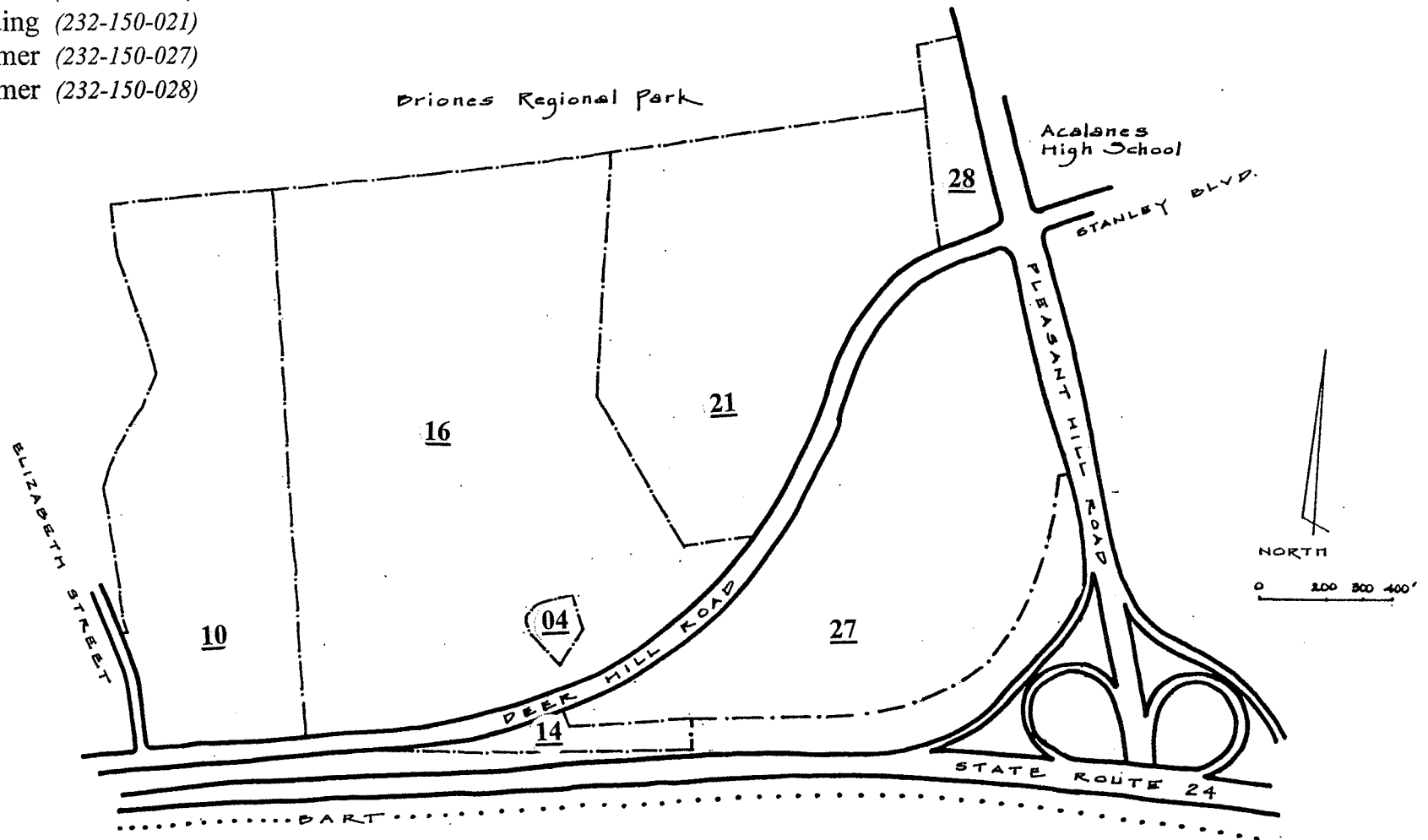
APPROVED:

Mike Anderson, Mayor

ATTEST:

Joanne Robbins, City Clerk

<u>04</u>	Naglicki (232-140-004)
<u>10</u>	Dettmer (232-140-010)
<u>14</u>	Caltrans (232-140-014)
<u>16</u>	Dettmer (232-140-016)
<u>21</u>	Holding (232-150-021)
<u>27</u>	Dettmer (232-150-027)
<u>28</u>	Dettmer (232-150-028)



EASTERN DEER HILL ROAD

Parcels and Ownership

Background Chronology for Eastern Deer Hill Road and GP03-04/RZ02-04

April 19, 2001	Based on a recommendation from GPAC, the Planning Commission voted 4-2 to recommend to the City Council that the General Plan designation for the Eastern Deer Hill Road area be changed to Rural Residential.
January 2002	As part of the discussion about the revised General Plan in January 2002, the City Council approved staff's recommendation that the eastern Deer Hill area be the subject of further planning before a decision on land use designations was made.
February 2002	The Council confirmed that further planning should be done for this area by including the adoption of an Eastern Deer Hill Road Specific Plan in its FY2002/2003 goals.
July 2002	Planning staff sent out requests for proposals to consultants for the preparation of the specific area plan.
September 2002	Planning staff recommended to the Council that WRT be selected for preparation of the specific plan. WRT's cost to prepare the specific plan was \$146,213. The Council subsequently asked staff to look at less expensive options which were presented to the Council later that month.
October 2002	After reviewing seven options ranging from modifying the consultant's scope of work for the specific plan, hiring a contract planner, to removing the specific plan as a Council goal, the Council decided to defer consideration of the specific plan to their goal setting session for 2003/2004.
October 28, 2002	<p>City Council adopts the revised General Plan including the following:</p> <ul style="list-style-type: none">• Goal LU-13: Ensure that the Eastern Deer Hill Road area near the section of Pleasant Hill road is developed, where development is appropriate, in a manner consistent with Lafayette's community identity.• Policy LU-13.1: Preserve and enhance the semi-rural single-family residential character north of Deer Hill Road where not adjacent to Pleasant Hill Road.• Policy LU-13.2: Consider options for development south of Deer Hill Road and north of Deer Hill Road where adjacent to Pleasant Hill Road.• Program LU-13.2.2: Prepare through community planning process as Eastern Deer Hill Road Specific Plan.
February 2003	At its goal setting session for 2003/2004, the Council decided not to include preparation of the Deer Hill Road Specific Plan as a goal due to

budget constraints and other significant projects taking staff's time. However, staff was asked to bring back an agenda item to discuss whether the land use designation within the planning area should be changed.

At the City Council meeting of February 24, 2003, staff offered three options for the Council to consider; 1) Do nothing now and reconsider preparation of a specific plan next year, 2) Initiate a General Plan amendment to change the current APO designations to LR and revise the General Plan goals, policies, and program to support this change in density, and 3) Direct staff to prepare a specific plan. The City Council voted to pursue option 2 and have staff return with a specific proposal for a General Plan Amendment.

August 2003

Staff began preparation of the General Plan Amendment but asked for clarification from the City Council on which specific properties to include. The City Council took the following action, "It was M/S/C (Tatzin/Horn) to direct staff to initiate a General Plan amendment for the seven parcels as outlined in the Eastern Deer Hill Road area and that parcels with APO zoning be changed to residential zoning. Vote: 4-0-1 (Samson absent)."

November 18, 2004

Planning Commission conducts first public hearing on GP03-04/RZ02-04 as described below.

GP03-04, CITY OF LAFAYETTE (APPLICANT): Amendment to General Plan Map I-1 to reclassify three properties (APN 232-140-014, 232-150-027, and 232-150-028) located on Deer Hill and Pleasant Hill roads from Administrative/Professional/Office/Multifamily Residential to Rural Residential Single Family and/or Low Density Single Family. The Planning Commission may also consider an amendment to General Plan Map I-1 to reclassify four properties (APN 232-140-004, 232-140-010, 232-140-016, and 232-150-021) located on Deer Hill and Pleasant Hill roads from Low Density Single Family Residential to Rural Residential Single Family.

RZ02-04, CITY OF LAFAYETTE (APPLICANT): Change of zoning designation for three properties (APN 232-140-014, 232-150-027, and 232-150-028) located on Deer Hill and Pleasant Hill roads from APO to L-R-10 and/or R-20. The Planning Commission may also consider rezoning four properties (APN 232-140-004, 232-140-010, 232-140-016, and 232-150-021) located on Deer Hill and Pleasant Hill roads from R-20 to L-R-10.

During staff's research into the evolution of the City's desire to consider General Plan and zoning changes for the Eastern Deer Hill area, it was noted that two other options for the seven properties in this area were discussed during public hearings for the 2002 General Plan update. The staff report for this meeting included two possible options in addition to the project description. (See Exhibit 1)

- January 6, 2005 Planning Commission conducts a public hearing. At the meeting, a majority of the Commissioners expressed concern about moving forward with GP03-04/RZ02-04 without additional information on the physical characteristics of the properties and an assessment of their development potential. The Commission directed staff to prepare a preliminary scope of work and budget for a consultant to prepare an opportunities and constraints analysis (OCA) for the seven Deer Hill Road properties.
- February 3, 2005 Planning Commission holds a public hearing where staff presents a scope of work and budget for a consultant to prepare an OCA. The Commission votes to forward the Commission's recommendation to the City Council for preparation of an OCA prior to any further action on GP03-04/RZ02-04.
- March 15, 2005 City Council conducts a public hearing to consider preparation of an OCA. The City Council votes to provide \$40,000 from the General Fund for the preparation of the OCA.
- September 7, 2006 Planning Commission conducts a public hearing where it reviews the OCA prepared by MHA Consulting and considers staff's request to decide which specific properties within the Easter Deer Hill Area should be included in the General Plan and rezoning applications and what the designations should be. Further discussion on GP03-04/RZ02-04 is continued to allow staff to respond to Planning Commission requests for more information related to a scope of work and estimated cost for a consulting civil engineer to calculate the average slope of specific properties in the study area and a scope of work for conceptual design studies for parcels 27 and 28 (1175 Pleasant Hill Road and 3233 Deer Hill Road, respectively), including bulk and mass studies and circulation and traffic constraints.
- October 19, 2006 &
November 16, 2006 Staff provides scopes of work for average slope calculations and conceptual development studies to the Planning Commission at a public hearing. On November 16, the Commission directs staff to proceed with requests for proposals for the two studies. (The \$30,000 needed to prepare the studies is included in the Planning Services Division consulting services budget.)
- November 15, 2007 As directed by the Planning and Building Services Manager, staff provides the Planning Commission with a copy of the proposal by Design, Community & Environment to prepare conceptual development studies for parcels 27 and 28. The Planning Commission votes to rescind its prior direction to staff for preparation of conceptual development studies.
- November 21, 2007 Martin Lysons of Gagen McCoy files a letter on behalf of Anna Maria Dettmer appealing the Planning Commission's November 15 decision.

EXHIBIT 1 **PROJECT DESCRIPTION AND TWO OPTIONS**

GP03-04, RZ02-04 CITY OF LAFAYETTE (APPLICANT): Amendment to General Plan Map I-1 to reclassify three properties located on Deer Hill and Pleasant Hill roads as follows:

Properties	Property Owner	Current General Plan	Proposed General Plan	Current Zoning	Proposed Zoning
APN 232-140-0 <u>14</u>	State of California	Administrative/Professional/Office/Multifamily Residential	Rural Residential Single Family	APO	L-R-10
APN 232-150-0 <u>27</u>	Dettmer	Administrative/Professional/Office/Multifamily Residential	Rural Residential Single Family	APO	L-R-10
APN 232-150-0 <u>28</u>	Dettmer	Administrative/Professional/Office/Multifamily Residential	Low Density Single Family	APO	R-20

The Planning Commission and City Council may also consider the following two options:

Option 1

Properties	Property Owner	Current General Plan	Proposed General Plan	Current Zoning	Proposed Zoning
APN 232-140-0 <u>14</u>	State of California	Administrative/Professional/Office/Multifamily Residential	Rural Residential Single Family	APO	L-R-10
APN 232-150-0 <u>27</u>	Dettmer	Administrative/Professional/Office/Multifamily Residential	Rural Residential Single Family	APO	L-R-10
APN 232-150-0 <u>28</u>	Dettmer	Administrative/Professional/Office/Multifamily Residential	Rural Residential Single Family	APO	L-R-10

Option 2

Properties	Property Owner	Current General Plan	Proposed General Plan	Current Zoning	Proposed Zoning
APN 232-140-0 <u>14</u>	State of California	Administrative/Professional/Office/Multifamily Residential	Rural Residential Single Family	APO	L-R-10
APN 232-150-0 <u>27</u>	Dettmer	Administrative/Professional/Office/Multifamily Residential	Rural Residential Single Family	APO	L-R-10
APN 232-150-0 <u>28</u>	Dettmer	Administrative/Professional/Office/Multifamily Residential	Rural Residential Single Family	APO	L-R-10
APN 232-140-0 <u>04</u>	Naglicki	Low Density Single Family Residential	Rural Residential Single Family	R-20	L-R-10
APN 232-140-0 <u>10</u>	Dettmer	Low Density Single Family Residential and Rural Residential Single Family	Rural Residential Single Family	Split R-20 & LR-10	L-R-10
APN 232-140-0 <u>16</u>	Dettmer	Low Density Single Family Residential and Rural Residential Single Family	Rural Residential Single Family	Split R-20 & LR-10	L-R-10
APN 232-150-0 <u>21</u>	Holding	Low Density Single Family Residential and Rural Residential Single Family	Rural Residential Single Family	Split R-20 & LR-10	L-R-10

City of Lafayette Staff Report

For: Planning Commission

By: Christine Sinnette, Senior Planner

Date Written: November 6, 2007

Meeting Date: November 15, 2007

Subject: Preparation of conceptual design studies for two properties located at 3233 Deer Hill Road (APN 323-150-028) and 1175 Pleasant Hill Road (APN 232-150-027)

Planning Division staff have been working on City-initiated General Plan and zoning amendments for seven properties in the Eastern Deer Hill Road area. At their meeting of November 16, 2006, the Planning Commission directed staff to prepare a scope of work for a contract consultant to prepare conceptual bulk and mass design studies for the two properties that front on Pleasant Hill Road. (See attachments 1 and 2 for staff report and minutes.) Staff has received a scope of work from Design, Community & Environment (DC&E) to prepare the studies for a previously determined budget of \$25,000. Prior to entering into a contract with DC&E, it was suggested at a joint City Council/Planning Commission/Design Review Commission meeting on September 24, 2007, that the Planning Commission review the scope of work prior to moving forward with the design studies (see attachments 3 and 4).

Given the limited budget and staff's experience with DC&E, staff did not send out a request for proposals for the design studies since DC&E had prepared similar studies for the City in the past (see Attachment 5 for example). It should be noted that the design studies are not all-inclusive and will not include a design for every possible development scenario. For example, a development scenario for a specific parcel may not include one, two or three story buildings for each possible residential, office, or institutional use as it is expected that building bulk and mass would be similar regardless of the specific land use.

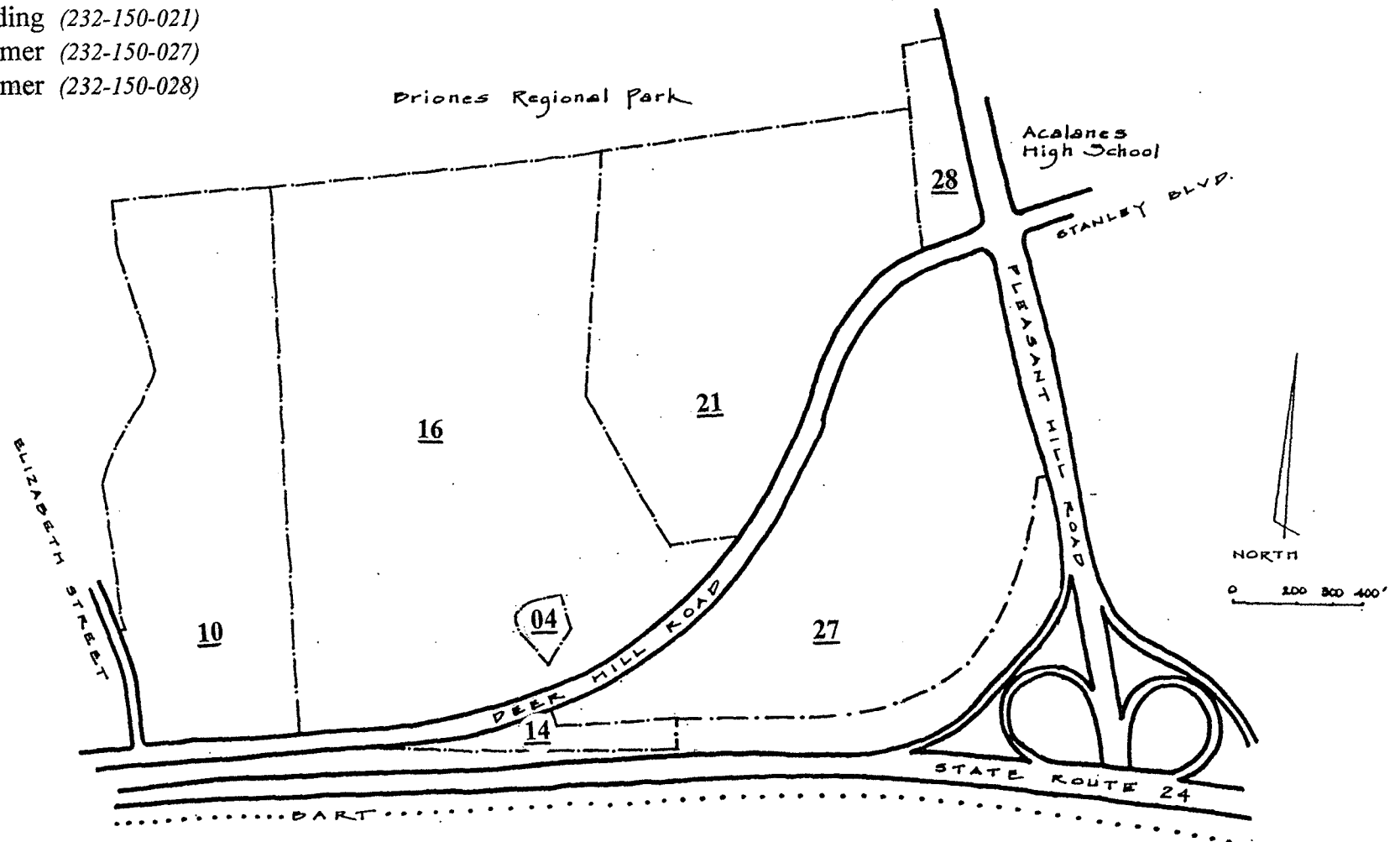
STAFF RECOMMENDATION

Staff recommends that the Commission direct staff to enter into a contract with Design, Community & Environment to prepare conceptual design studies as described in the scope of work dated November 1, 2007.

ATTACHMENTS

1. Eastern Deer Hill Road Parcels and Ownership
2. Staff Report and Minutes from the Planning Commission Meeting of November 16, 2006
3. Proposed Scope of Work for Conceptual Development Studies
4. Scope of Work from Design, Community & Environment, dated November 1, 2007
5. Examples from Downtown Conceptual Parking and Development Studies, prepared by Design, Community & Environment, 2006

<u>04</u>	Naglicki (232-140-004)
<u>10</u>	Dettmer (232-140-010)
<u>14</u>	Caltrans (232-140-014)
<u>16</u>	Dettmer (232-140-016)
<u>21</u>	Holding (232-150-021)
<u>27</u>	Dettmer (232-150-027)
<u>28</u>	Dettmer (232-150-028)



EASTERN DEER HILL ROAD
Parcels and Ownership

City of Lafayette Staff Report

For: Planning Commission

By: Christine Sinnette, Senior Planner

Date Written: November 7, 2006

Meeting Date: November 16, 2006

Subject: GP03-04, CITY OF LAFAYETTE (APPLICANT): Amendment to General Plan Map I-1 to reclassify three properties (APN 232-140-014, 232-150-027, and 232-150-028) located on Deer Hill and Pleasant Hill roads from Administrative/Professional/Office/Multifamily Residential to Rural Residential Single Family and/or Low Density Single Family. The Planning Commission may also consider an amendment to General Plan Map I-1 to reclassify four properties (APN 232-140-004, 232-140-010, 232-140-016, and 232-150-021) located on Deer Hill and Pleasant Hill roads from Low Density Single Family Residential to Rural Residential Single Family.

RZ02-04, CITY OF LAFAYETTE (APPLICANT): Change of zoning designation for three properties (APN 232-140-014, 232-150-027, and 232-150-028) located on Deer Hill and Pleasant Hill roads from APO to L-R-10 and/or R-20. The Planning Commission may also consider rezoning four properties (APN 232-140-004, 232-140-010, 232-140-016, and 232-150-021) located on Deer Hill and Pleasant Hill roads from R-20 to L-R-10.

BACKGROUND

This public hearing was continued to this date without consideration from the Planning Commission meeting of October 19, 2006. Although the Planning Commission reviewed the Eastern Deer Hill Opportunities and Constraints Analysis at their meeting on September 7, the Commission determined they still needed additional information on the possible development potential for the study area. The purpose of the continuance was to allow staff to respond to Planning Commission requests for more information. The following items were requested.

1. A legal opinion from the City Attorney on the affect split zoning has on the development potential and allowed density of a parcel.
2. A scope of work and estimated cost for a consulting civil engineer to calculate the average slope of specific properties in the study area.

3. Conceptual development studies for parcels 27 and 28, including bulk and mass studies and circulation and traffic constraints.

STAFF COMMENTS

City Attorney Malathy Subramanian prepared the following response to the Commission's question about split zoning on a parcel.

To illustrate the result of split zoning, we will use the example of a nine acre parcel in the City that is divided by zoning districts such that 3 acres are zoned R-40 and 6 acres are zoned LR-10. If the owner pursues a subdivision of the 3 acres zoned R-40 to be divided into three lots, the remaining 6 acre parcel zoned LR-10 cannot be developed with a dwelling unit or as a separate lot under a LR-10 zoning designation, as it does not meet the minimum lot area requirement of 10 acres. It should be noted that the minimum lot area of an existing L-R parcel that is less than 10 acres on July 8, 2002 (the date when the new hillside regulations and LR-10 rezonings were adopted) is the area of the parcel that existed on that date. In this case, if the parcel existed as of July 8, 2002, a single family residence could be permitted on the 9 acres. However, because the owner has decided to subdivide the parcel, the remaining parcel will now become 6 acres and will no longer be grandfathered in with the lower minimum lot area for LR-10. Therefore, the owner can either subdivide the 3 acre lot, which will cause the remaining 6 acres to further nonconform to the LR-10 zoning or the owner can develop one single family residence on the existing 9 acres under the LR-10 zoning.

Regarding the slope analysis, staff requested that Schell & Martin, Inc., a local civil engineering firm familiar with Lafayette's hillside regulations and average slope calculation formula, prepare a proposal based on the following scope of work. Schell & Martin has estimated that the fee would be between \$2,000 and \$3,500.

- ✓ Calculate average slope for each of the seven parcels.
- ✓ Calculate average slope of the R-20 zoned area on parcels 232-140-010, 232-140-016, and 232-150-021.
- ✓ Calculate square feet/acres of land with slope of 15 percent or less in R-20 zoned area on parcels 232-140-010, 232-140-016, and 232-150-021 and on parcels 232-150-027 and 232-150-028.
- ✓ Calculate square feet/acres of land with slope of 30 percent or less in R-20 zoned area on parcels 232-140-010, 232-140-016, and 232-150-021 and on parcels 232-150-027 and 232-150-028.
- ✓ Calculate average slope on 232-150-027 for the area northeast of the drainage channel.
- ✓ Calculate average slope on 232-150-027 for the area southwest of the drainage channel.

The Commission's third request was for a program or scope of work to prepare a conceptual development plan for parcels 27 and 28. In preparing the scope of work, staff specified that the conceptual development studies should test different land use and density options for multi-family residential and office uses. The scope of work is an outline only; a more formal request for proposals will be prepared following the Commission's review and direction to staff. Once the conceptual development studies are completed, they will be analyzed by the City's traffic consultant.

STAFF RECOMMENDATION

Staff recommends that the Commission review the scopes of work for the slope analysis and conceptual development studies and direct staff to proceed with requests for proposals. The public hearing should be closed at this time. Future public hearings will be duly noticed as required by law.

1 **B. GP03-04, CITY OF LAFAYETTE (APPLICANT):** Amendment to General Plan Map I-1 to
2 reclassify three properties (APN 232-140-014, 232-150-027, and 232-150-028) located on Deer
3 Hill and Pleasant Hill roads from Administrative/Professional/Office/Multifamily Residential to
4 Rural Residential Single Family and/or Low Density Single Family. The Planning Commission
5 may also consider an amendment to General Plan Map I-1 to reclassify four properties (APN 232-
6 140-004, 232-140-010, 232-140-016, and 232-150-021) located on Deer Hill and Pleasant Hill
7 roads from Low Density Single Family Residential to Rural Residential Single Family.

8 **RZ02-04, CITY OF LAFAYETTE (APPLICANT):** Change of zoning designation for three
9 properties (APN 232-140-014, 232-150-027, and 232-150-028) located on Deer Hill and Pleasant
10 Hill roads from APO to L-R-10 and/or R-20. The Planning Commission may also consider
11 rezoning four properties (APN 232-140-004, 232-140-010, 232-140-016, and 232-150-021)
12 located on Deer Hill and Pleasant Hill roads from R-20 to L-R-10.

13 **Recommendation:** Staff recommends that the Commission review the scopes of work for the
14 slope analysis and conceptual development studies and direct staff to proceed with requests for
15 proposals.

16 **Project Planner:** Christine Sinnette, Tel (925) 299-3241, csinnette@lovelafayette.org
17 (Estimated time: 30 min*)

18 Senior Planner Christine Sinnette said the public hearing on the General Plan amendment and rezoning
19 proposal was continued to this date without consideration from the Planning Commission meeting of
20 September 7, 2006. Although the Commission reviewed the Eastern Deer Hill Opportunities and Constraints
21 Analysis at a previous meeting, the Commission determined that they still needed additional information on
22 the possible developmental potential for the study area. The purpose of the continuance was to allow staff to
23 respond to the Planning Commission's request for more information.

24 The first item requested was a legal opinion from the City Attorney on the effect split-zoning has on the
25 development potential and allowed density of a parcel. The second item was a scope of work and estimated
26 cost for a consulting civil engineer to calculate the average slope of specific properties in the study area.
27 Schell & Martin, a local engineering firm, has estimated that their fee would be between \$2,000 and \$3,500.
28 The last item was for staff to prepare a program or scope of work for conceptual development plans for
29 parcels 27 and 28. In preparing the scope of work, staff specified that the conceptual development studies
30 should test different land use and density options for multi-family residential and office uses and includes 12
31 separate development scenarios.

32 Staff recommends the Commission review the scope of work for the slope analysis and conceptual
33 development studies and direct staff to proceed with requests for proposals.

34 Chair Ateljevich asked if staff is recommending the Commission go through 12 different scenarios with the
35 consultant.

36 Ms. Sinnette said after the last meeting where the Commission expressed an interest in this, she sat down
37 with Ms. Srivatsa and came up with twelve potential scenarios. She admitted that it was probably more than
38 what is needed but she wanted the Commission to make that determination.

39 Commissioner Chastain replied that it is not so much a problem of visualization as it is testing the capacity of
40 the site. He didn't know if it would be necessary to have it visualized and modeled in terms of realization.
41 What is needed is some understanding of what the potential capacity of that site is.

42 Chair Ateljevich pointed out that this was the reason why they asked for the slope calculation.

43 Ms. Srivatsa said staff took this approach because the Commission at their last meeting indicated it was both
44 an issue of land use and visibility.

45 Chair Ateljevich said if they had the slope calculations and could get some idea of capacity of the site, they
46 could then move to visualization. In terms of land use, the Planning Commission in 2001 agreed on a 4-to-2
47 vote to forward a recommendation for rural residential to the City Council.

1 Ms. Srivatsa said during the general plan process, the Planning Commission in a majority vote recommended
2 rural residential. It went to the City Council before the General Plan was adopted and it was decided the
3 change would not be made; the zoning and land use designations were to remain the same and staff would
4 do a special study of the area. When the cost to do the study was determined to be too expensive, the
5 Council at that time directed the reclassification of the properties to rural residential. When it came
6 back to the Planning Commission, the Commission determined that that was not the appropriate
7 zoning or land use classification and again requested a study be done of the area.

8 Commissioner Holt asked if the Commission had approved the study.

9 Chair Ateljevich said what the Council did was to say they were initiating a general plan amendment; they
10 didn't mention what classification because they weren't in agreement. They asked staff what density they
11 would propose and staff said residential.

12 Commissioner Holt asked Ms. Sinnette if that was her understanding.

13 Ms. Sinnette said the Council was not specific as to the actual residential designation; they just said some
14 form of residential.

15 Chair Ateljevich said one thing that could start the decision path is to agree on which one of the
16 scenarios they would study. She would also like to see any scenario based on slope calculations be
17 put on more up-to-date topography, and a determination of where the ridgeline ends.

18 Vice Chair Mitchell agreed the updated topographical information should be used. He thought it was GPAC
19 who decided the ridgeline crossed the street.

20 Chair Ateljevich said it didn't. The ridgeline GPAC used was the old topography which was based on airplane
21 flyovers done in the 1960s. It didn't have the grading on it that was done to put Deer Hill through. When they
22 looked at that topography, it made sense to cross the road. But when you look at the topography now, with
23 Deer Hill in place and the road graded back, the ridgeline does not cross the road. The ordinance demands
24 that the more recent field drawing topography be used.

25 Secondly, Chair Ateljevich said they have to remember that there were certain conditions placed in the
26 general plan which list four criteria. She felt any scenario that they develop should meet the same criteria
27 which is to protect and enhance the rural character of the area; preserve prominent views; include
28 development standards that maintain the semi-rural character of the area and community; and utilize the
29 property south of Deer Hill Road to help communicate the image of Lafayette as a semi-rural community.
30 Chair Ateljevich doesn't believe they should spend city money for developing too many scenarios. She thinks
31 it ought to be toned down to one or two.

32 Commissioner Holt asked if some of the tasks can be combined.

33 Commissioner Harris agreed that ten different paths on parcel 27 seem like an awful lot.

34 Chair Ateljevich said she would rather focus on one or two of them.

35 Commissioner Harris thought it was important that they get some sense visually of that site.

36 Chair Ateljevich said they would also have to evaluate the impression it would give.

37 Vice Chair Mitchell said because the City Council and the owner of properties 27 and 28 wanted a rural
38 designation, he would propose eliminating Task K and L which recommends studying an office option.

39 Ms. Srivatsa asked Vice Chair Mitchell if he was talking about 27 & 28.

40 Vice Chair Mitchell said he was talking about 28.

41 Ms. Srivatsa said she didn't think they were in agreement that it should only be residential.

1 Vice Chair Mitchell suggested staff check the minutes because he remembers specifically asking the
2 representative if they were looking for an office zoning. They said no, they wanted residential. They further
3 clarified it by saying they would prefer multi-residential and that they were not looking for office use.

4 Chair Ateljevich said one scenario they should look at is multi-residential.

5 Commissioner Chastain said that's not exactly the way he remembered it and he's not quite sure what to do
6 with Vice Chair Mitchell's statement.

7 Commissioner Holt agreed that he would also like to revisit that and thinks it's appropriate to at least look at
8 office use, and not just residential.

9 Chair Ateljevich read into the record the action that the City Council took. "It was motioned by Mr. Tatzin
10 and seconded by Mr. Horn to direct staff to initiate a general plan amendment for the seven parcels as
11 outlined in the eastern Deer Hill Road area and that parcels with APO zoning (27 & 28) be changed to
12 residential zoning.

13 Ms. Srivatsa apologized and indicated she misunderstood Vice Chair Mitchell. She thought he said that the
14 property owner wanted residential, not the City Council.

15 Vice Chair Mitchell indicated his recollection was the property owner did not request an office zoning.

16 Ms. Srivatsa indicated staff can go back and check the minutes.

17 Vice Chair Mitchell stated he could be wrong, but he asked the owner specifically about that so it should show
18 up in the minutes.

19 Chair Ateljevich pointed out the Council's motion was for residential.

20 Ms. Srivatsa said although the list of tasks seems very lengthy, it's for a specific area in 27 & 28. Essentially
21 lots 27 & 28 have three distinct zones – the flat area on top of the hill; the Christmas tree lot; and the former
22 gas station. To answer Commissioner Holt's question, one could combine these to create schematics for the
23 three portions.

24 Chair Ateljevich said the slope in the back of Lot 28 is about 70% slope, which is steep. In the
25 constraints analysis, it doesn't point out any soils problems there but it is a landslide in the making.
26 Because it is all crumbly and it looks like half the property is going to come down any day now, it simply
27 isn't a very buildable site. In order to put it to use, regardless of what use, the slope will have to be repaired
28 and a very high retaining wall will have to put in.

29 Commissioner Harris said that coupled with the gas station and high school across the street – he couldn't
30 see putting houses in that area.

31 Chair Ateljevich said she can't either. Regardless of what it's zoned for – she believes the density will be
32 controlled by the Hillside Ordinance. She does not see how anything can be built on Lot 28.

33 Commissioner Holt disagreed with the Chair and felt residential was totally inappropriate.

34 Chair Ateljevich didn't think it should get built at all.

35 Commissioner Holt pointed out it's a legal lot of record so you can't just say that. If he could persuade his
36 fellow Commissioners to agree with him on Lot 28, they can at least make a recommendation tonight.

37 Commissioner Chastain asked what are they trying to decide tonight is to what extent it will be studied. He
38 does not want to just have it truncated because of people's opinion of what should happen there. He
39 remembers the discussion and recalls the Commission was unsure as to exactly what to do. Otherwise, they
40 would have voted along with the City Council and moved forward with this. But he remembers the discussion
41 that more information was needed. The question now is how much more information is needed. He would
42 feel more comfortable about making a decision if he had more information about what the capacity is for some
43 of the lots.

Commissioner Lovitt said he does not see any special problem with making the zoning fairly restrictive and making it a residential zoning. If someone comes along with a better idea, they can always submit an application for Commission consideration.

Chair Ateljevich asked how many acres are on lot 27, the largest parcel.

Ms. Sinnette indicated Lot 27 has 22 acres.

Chair Ateljevich said they should study single and multiple-residential. Regardless of what is decided, it's going to depend on how well it can be done and how well it can meet the criteria of the general plan.

Commissioner Humann said he does not understand why they are spending a lot of time discussing this. He would like to direct staff to look at the slope density to determine the residential capacity and to send out the RFPs.

Commissioner Chastain agreed it is a good idea because it doesn't cost anything to send out RFP.

Chair Ateljevich asked if the slope density can be done right away.

Ms. Sinnette said that even though sending out an RFP doesn't cost anything, staff time is involved as well as the time it would take a consultant to prepare the proposal. She suggested they move forward with the slope analysis to determine what the density will be so discussion can continue as to whether or not office space is even viable and hone in better on exactly what kind of development will be the best fit.

Ms. Srivatsa said she is going to disagree with Ms. Sinnette. She indicated staff will condense the list of scenarios which involved very low density residential as determined by the Council; a single family model; a multi-family model; and one that involved some low density offices and send it out. By the time the Commission gets the slope density calculations, staff will know at that point how much that will cost.

Chair Ateljevich closed the public portion of the hearing.

Commissioner Holt moved and Commissioner Harris seconded to direct staff to proceed with Ms. Srivatsa's suggestion.

AYES: Ateljevich, Chastain, Harris, Holt, Humann, Lovitt, and Mitchell

NOES: None

ABSENT: None

ABSTAIN: None

7. NEW PUBLIC HEARINGS (Estimated start time: 10:00 pm*)

A. L02-06 & HDP46-06 JIM LOUIE FOR T-MOBILE (APPLICANT), TEMPLE ISAIAH (OWNER), R-40 ZONING: Request for: (1) Land Use permit pursuant to Section 6-7103(i) of the Lafayette Municipal Code (LMC), (2) Hillside Development Permit pursuant to Section 6-2015 LMC, and (3) ~~Design Review approval pursuant to Section 6-1903 LMC*~~ to increase the height of an existing wireless telephone antenna 'tree pole' from 35-ft. to 50-ft. and install six new antennas and a 368 sq.ft. equipment shed, located within the Hillside Overlay District at Temple Isaiah, 3800 Mt. Diablo Boulevard. APN 241-010-046.
(*applicable only to residential development)

V07-06 JIM LOUIE FOR T-MOBILE (APPLICANT), TEMPLE ISAIAH (OWNER), R-40 ZONING: Request for: (1) Variance from Section 6-7107(a) of the Lafayette Municipal Code to increase the height of an existing wireless telephone antenna 'tree pole' from 35-ft. to 50-ft. where the maximum permitted structure height is 35-ft., located at Temple Isaiah, 3800 Mt. Diablo Boulevard. APN 241-010-046.

Recommendation: Consider the application and continue to a date certain to allow the applicant to revise the project plans based on staff and Commission comments.

Conceptual Development Studies for Eastern Deer Hill Area

Scope of Work

Purpose: Prepare conceptual studies showing the potential development capacity for two properties in the Eastern Deer Hill Area. The properties are APN 232-150-027 (parcel 27) and APN 232-150-028 (parcel 29). Parcel 27 is 22.26 acres and parcel 28 is 1.91 acres. Both parcels are zoned APO – Administrative/Professional Office District.

Policy Considerations: The conceptual development studies shall be based on the following intent, goal, and policies of the General Plan as they relate to the Deer Hill Road corridor and entryway to Lafayette (ignore references to a specific plan).

Deer Hill Road, a major arterial in Lafayette, runs parallel to Hwy 24 from Pleasant Hill Road to Happy Valley Road. As stated in the Circulation Element, the primary traffic generator along this arterial is the BART station and its attendant parking lots. Both the freeway and Deer Hill Road serve as dividing lines between the Downtown to the south and the semi rural single-family residential neighborhoods to the north. The development allowed under current zoning along the Deer Hill Road corridor must be consistent with Lafayette’s semi rural community identity.

Eastern Deer Hill Road (from Elizabeth Street east to Pleasant Hill Road). This area, particularly the triangular shaped parcel south of Deer Hill Road, is the most significant undeveloped property in the community because of its high visibility, its location as an entryway to the community, and its proximity to major thoroughfares as well as regional open space. For these reasons, any development that occurs should be consistent with the semi-rural character of the community. This area deserves a careful and detailed analysis of all the opportunities and constraints that will form the basis of future land use decisions.

Goal LU-13: Ensure that the Eastern Deer Hill Road area near the intersection of Pleasant Hill Road is developed, where development is appropriate, in a manner consistent with Lafayette’s community identity.

- | | |
|----------------|---|
| Policy LU-13.1 | Preserve and enhance the semi rural single-family residential character north of Deer Hill Road where not adjacent to Pleasant Hill Road. |
| Policy LU-13.2 | Consider options for development south of Deer Hill Road and north of Deer Hill Road where adjacent to Pleasant Hill Road. |

Program LU-13.2.2: Prepare through a community planning process an Eastern Deer Hill Road Specific Plan that includes the following requirements:

- a) Protect and enhance the rural character of the area north of Deer Hill Road where not adjacent to Pleasant Hill Road.
- b) Preserve prominent views.
- c) Include development standards that maintain the semi-rural character of the area and the community.
- d) Utilize the property south of Deer Hill Road to help communicate the image of Lafayette as a semi-rural community.

Policy LU-5.1

Residential Entryways: Residential entryways to the City should be distinctive and attractive features of the City's landscape.

Program LU-5.1.2: Prepare a specific plan for the following entryways and establish appropriate design guidelines: Acalanes Road, ...Consider preserving the northwest corner of Pleasant Hill Road and Highway 24 in as natural a state as possible. These plans should seek to:

- 1) Incorporate design features that create a semi-rural atmosphere,
- 2) preserve prominent views by limiting the height of development, where necessary,
- 3) provide distinctive native landscaping, and
- 4) increase setbacks from the street.

Development Criteria: The conceptual development studies shall use the existing topographical base map prepared by HJW and the Eastern Deer Hill Opportunities and Constraints Analysis. Development shall conform to the standards listed below.¹ Development shall assume that site grading will be kept to a minimum or would primarily constitute grading within building foundation walls. Below ground parking can be considered. Each development concept (task) shall include the assumed number of dwelling units, square footage of office/institutional space, and number of parking spaces. The studies should also incorporate points of ingress and egress to the sites and how they relate to existing constraints such as roadway grades, medians, and signalized intersections.

The deliverables for each task shall include a site plan, appropriate number of cross-sectional drawings to illustrate potential cut and fill and building elevations and cross-sectional drawing(s) of the mass and scale of development as seen from adjacent public rights-of-way including State Highway 24 and Pleasant Hill Road. A 15-degree declination study shall be included for any development within the ridgeline setback area pursuant to Chapter 6-20, sections 6-2023(c) and 6-2029.

¹ Excluding parking, site development standards are based on the standards of the APO district.

Height

- (a) Buildings shall not exceed the height limitations indicated in Figure 6-1006 (see copy of APO zoning description).
- (b) If any portion of a building or structure lies across the boundary line of a height limitation area, the minimum height requirement of the most restrictive area will apply.

Side yards

Side yards shall be at least 50 feet wide.

Rear yards

Rear yards shall be at least 25 feet wide.

Setback from public right-of-way

One-story structures shall be at least 25 feet from the right-of-way of any public street and multiple-story structures shall be at least 50 feet from the right-of-way of any public street. No parking shall be allowed in the area separating a structure from a public right-of-way and the area shall be landscaped.

Landscaping

Twenty percent of the property shall be landscaped.

Parking

Residential: 1.5 parking spaces per unit; 1 guest parking space for each 5 units
Offices: 1 space per 250 square feet of gross floor area.

Tasks: Each task will study a development concept as outlined below.

Task 1 – Area of parcel 27 located northeast of the drainage channel (approximately 1.76 ac.)

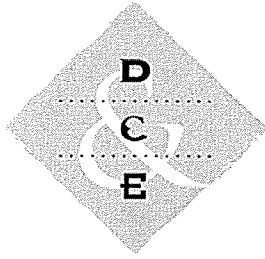
- 1.A Single-story office uses
- 1.B Low-density single-family residential (2 dwelling units/acre)
- 1.C Two-story low-density multifamily residential (maximum 17 dwelling units/acre)
- 1.D Three-story low density multifamily residential (maximum 17 dwelling units/acre)

Task 2 – Area of parcel 27 located southwest of the drainage channel (approximately 20.49 ac.)

- 2.A Two-story office/institutional uses
- 2.B Clustered low-density single-family residential (17 dwelling units/acre)
- 2.C Two-story low density multifamily residential (17 dwelling units/acre)
- 2.D Three-story low density multifamily residential (17 dwelling units/acre)

Task 3 – Parcel 28 (approximately 1.91 ac)

- 3.A Single-story office use
- 3.B Two-story office use
- 3.C Two-story low density multifamily residential (17 dwelling units/acre)



1625 SHATTUCK AVENUE
SUITE 300
BERKELEY, CA 94709
TEL: 510 848 3815
FAX: 510 848 4315

November 1, 2007

Ms. Christine Sinnette
City of Lafayette
3675 Mt. Diablo Boulevard
Lafayette, CA 94549

Re: Deer Hill Road Design Studies

Dear Christine:

Thank you for requesting a proposal from DC&E to conduct the design studies for the two parcels strategically located along Deer Hill Road. We understand the significant role these parcels play in conveying the City's unique rural character. DC&E looks forward to developing the design studies for these parcels that build upon the *Eastern Deer Hill Opportunities and Constraints Analysis* in coordination with existing goals and policies.

After reviewing the scope of work prepared by the City and the *Eastern Deer Hill Opportunities and Constraints Analysis* we have prepared the scope of work, schedule and cost proposal, as detailed below.

I SCOPE OF WORK

We propose a series of tasks that will provide the City with a better understanding of the development potential of Parcels 27 and 28. In Tasks A, B, and C, DC&E will study development prototypes for specific sites on these parcels. Each of the studies outlined in these tasks will include the number of assumed dwelling units, the square footage of office/institutional space, the number of parking spaces, and points of ingress and egress in relation to site constraints. Deliverables for each task will include a site plan, building elevations, massing diagrams and the appropriate number of cross-sectional drawings to illustrate potential cut and fill required of specific development concepts. DC&E will also prepare 15-degree declination studies for development concepts on any parcels or areas of parcels within the City's Ridgeline Setback.

The design studies will use the existing topographical base map and *Eastern Deer Hill Opportunities and Constraints Analysis*. DC&E assumes that the City will provide digital copies of these files.

Task A. Northeast Parcel 27 Design Studies

Northeast Parcel 27 is a 1.76-acre site located northeast of the drainage channel in parcel 27. DC&E will study the following development prototypes for this site:

- ◆ Single-story office uses
- ◆ Low-density single-family residential (2 dwelling units/acre)
- ◆ Two-story low density multi-family residential (maximum 17 dwelling units/acre)
- ◆ Three-story low density multi-family residential (maximum 17 dwelling units/acre)

Task B. Southwest Parcel 27 Design Studies

Southwest Parcel 27 is an approximately 20.49-acre site located southwest of the drainage channel in Parcel 27. As a portion of this site is within a Class I Ridgeline Setback, 15-degree declination studies will be included as appropriate. The development prototypes for this site include:

- ◆ Two-story office/institutional uses
- ◆ Clustered low density single-family residential (17 dwelling units/acre)
- ◆ Two-story low density multi-family residential (17 dwelling units/acre)
- ◆ Three-story low density multifamily residential (17 dwelling units/acre)

Task C. Parcel 28 Design Studies

Parcel 28 is an approximately 1.91-acre site. As the entire site falls within Class I Ridgeline Setback area, this task will include 15-degree declination studies. Due to its parcel size and topography, the site is constrained. Therefore, variances to existing setback ordinances may need to be studied with appropriate mitigations. The development prototypes for this site include:

- ◆ Single-story office use
- ◆ Two-story office use
- ◆ Two-story low density multifamily residential (17 dwelling units/acre)

Task D. Planning Commission Hearing (optional task)

If desired by the City, DC&E will attend one Planning Commission hearing to present an overview of the Design Studies and answer questions.

II SCHEDULE

DC&E is able to commence work on any of the tasks listed above as soon as we receive the City's authorization to proceed, and obtain a digital copy of the topographic base drawing for the sites. The design studies will be submitted to City staff in advance of the Planning Commission hearing scheduled for February, 2008.

III COST

DC&E has developed the series of tasks detailed in Section I based on the City's RFP. The costs for each of the tasks are shown below.

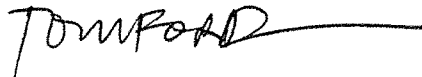
Task A Northeast Parcel 27 Design Studies	\$7,500
Task B Southwest Parcel 27 Design Studies	\$8,500
Task C Parcel 28 Design Studies	\$8,500
Task D Planning Commission Hearing (Optional Task)	\$500

DC&E will complete the tasks in this scope of work for fixed fees not to exceed these amounts. DC&E guarantees that it will complete a contracted scope of work for the contracted cost. Any in-contract overruns are absorbed by the firm and are not passed on to the client.

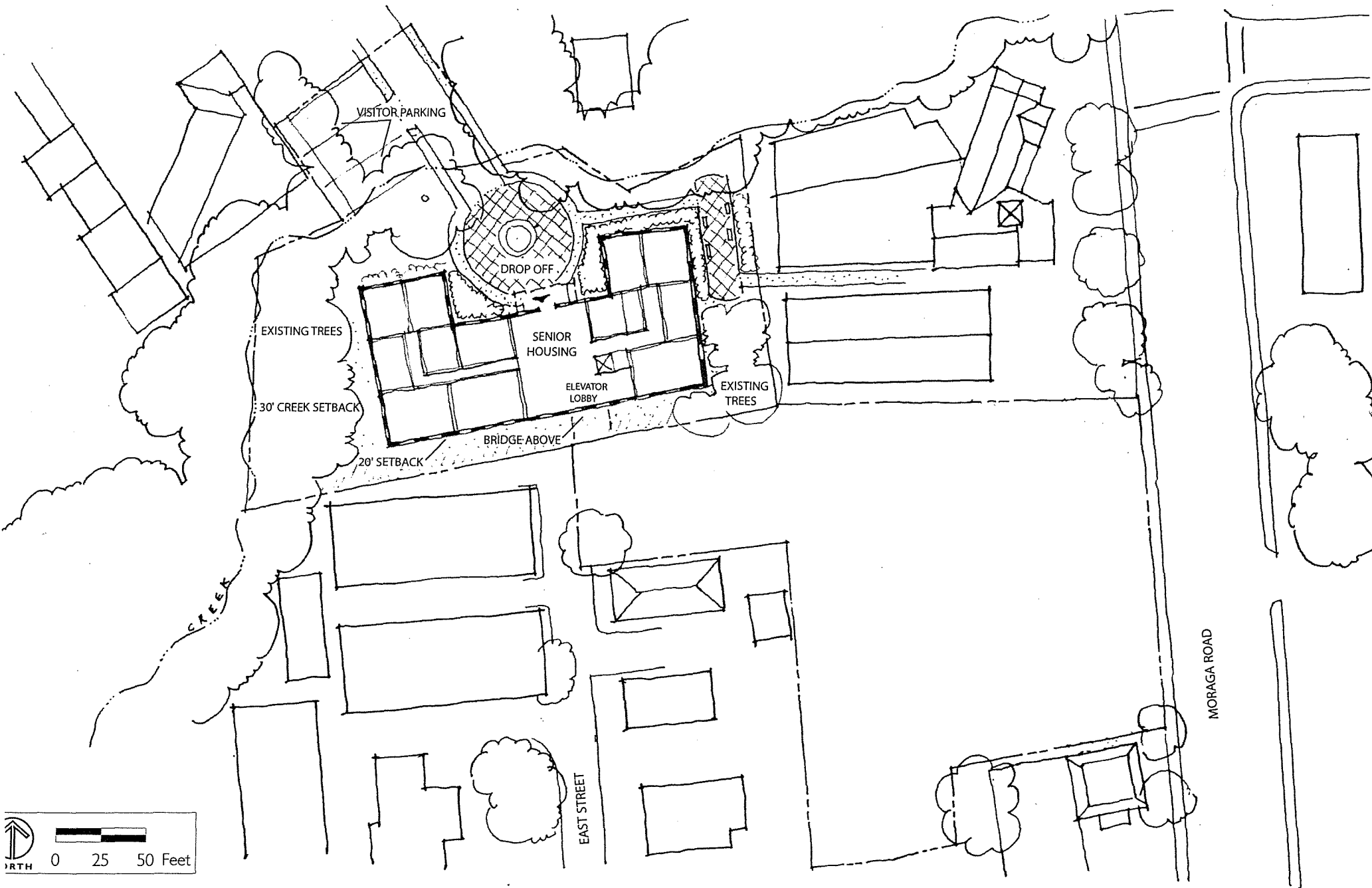
If you should desire, we can refine or adjust the scope of work detailed in Section I.

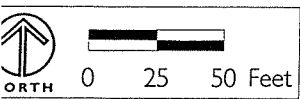
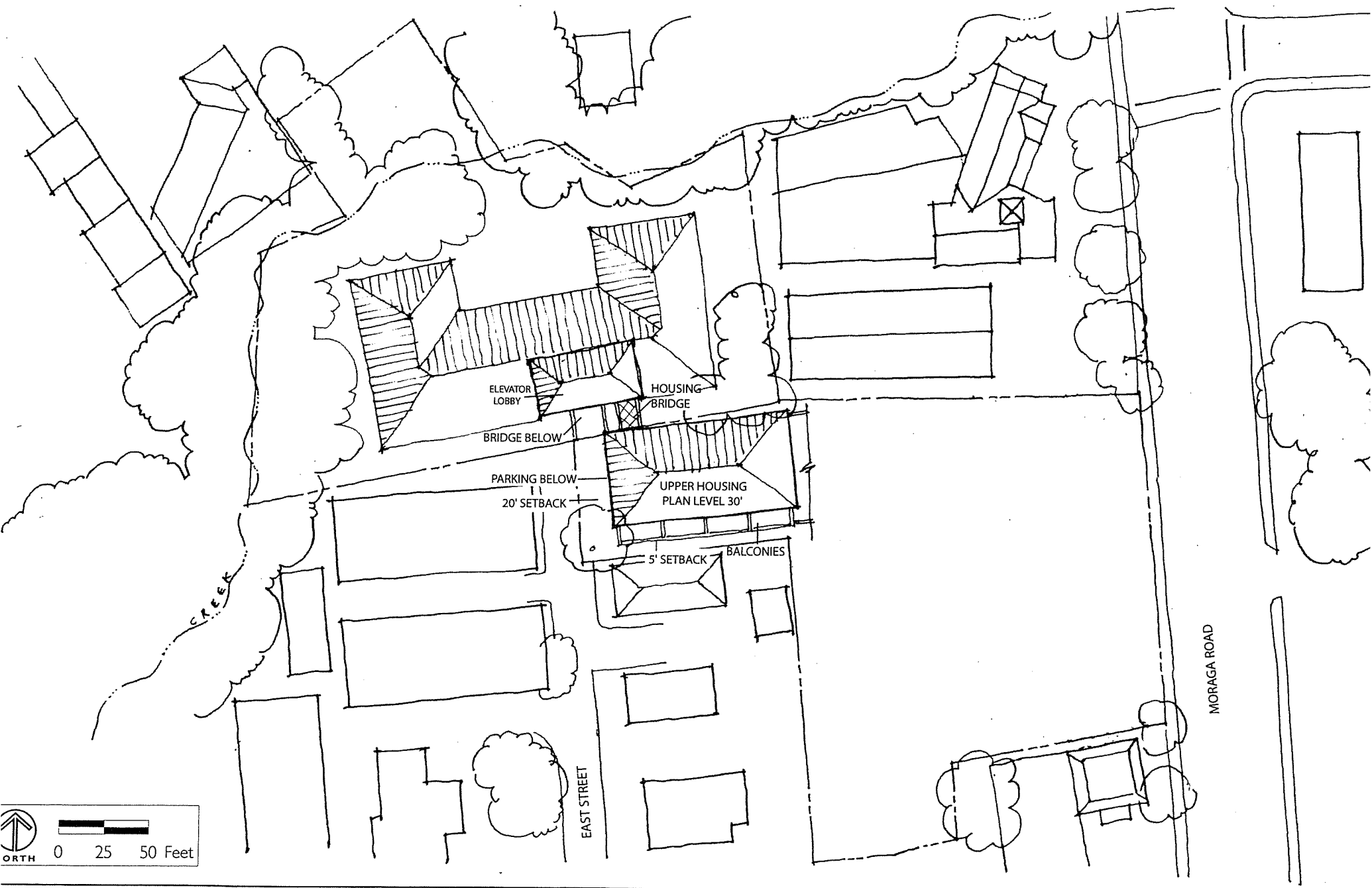
Please do not hesitate to contact me if you need more information. DC&E looks forward to working with you on these exciting and strategic studies for Lafayette.

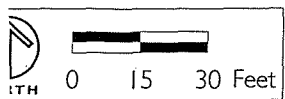
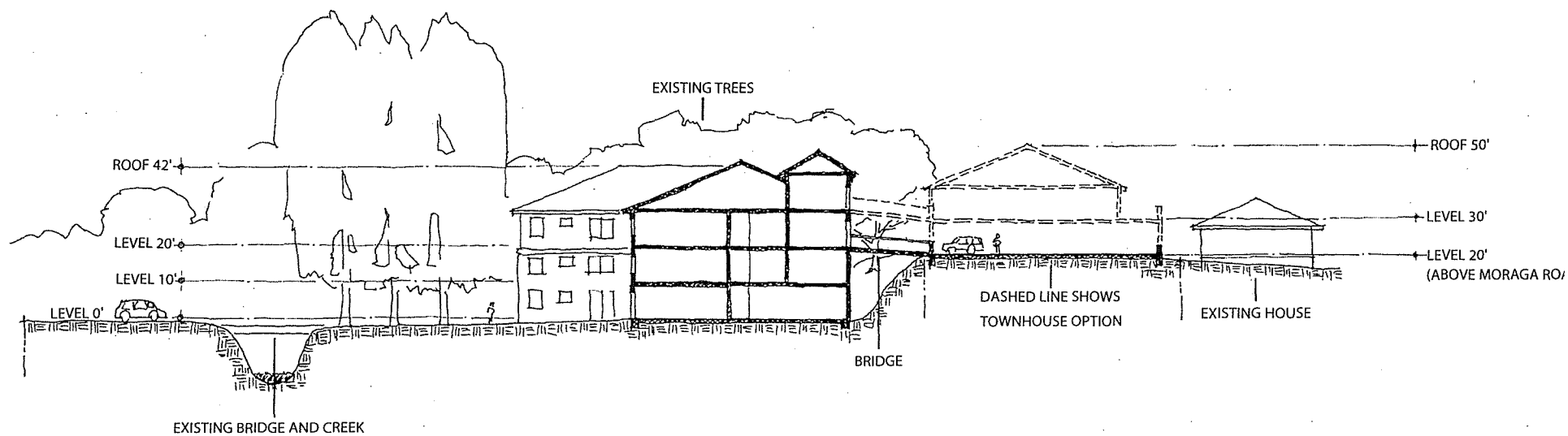
Sincerely,



Tom Ford, AICP
Principal









TOWNHOUSE ALTERNATIVE
FEBRUARY 16, 2006

Design, Community & Environment
Berkeley, California

Excerpt of draft Planning Commission meeting minutes of November 15, 2007

9. OTHER (Estimated 11:15 PM)

- A. **EASTERN DEER HILL ROAD DESIGN STUDY:** Consider preparation of conceptual design studies for two properties located at 3233 Deer Hill Road (APN 232-150-028) and 1175 Pleasant Hill Road (APN 232-150-027).

Recommendation: Direct staff to enter into a contract with Design, Community, and Environment to prepare conceptual design studies.

Project Planner: Christine Sinnette, Tel (925) 299-3241, csinnette@lovelafayette.org
(Estimated time: 15 min*)

Project Planner Christine Sinnette reported staff has been working on City-initiated General Plan and zoning amendments for seven properties in the Eastern Deer Hill Road area. Staff was directed at the November 16, 2006 meeting to prepare a scope of work for a contract consultant to prepare conceptual bulk and mass design studies for the two properties that front on Pleasant Hill Road. Staff has received a scope of work from Design, Community & Environment (DC&E) to prepare the studies for a budget of \$25,000. Prior to entering a contract with DC&E, it was suggested at a recent joint meeting that the Planning Commission review the scope of work prior to moving forward with the design studies.

Commissioner Ateljevich felt a slope analysis is needed in order to give them an idea of how many single family homes could be built on the property to comply with the Hillside Ordinance. We have to have that information before we can go any further.

Commissioner Mitchell asked if any one from the public wanted to speak.

Mike Henn approached the podium and stated he only wanted to say that his client and her attorney were happy to see this range in comparison to what they started off with.

Commissioner Mitchell asked Mr. Henn to clarify something for him. At a previous Planning Commission meeting, the owner's attorney submitted a letter recommending that the current APO zoning stay in place but then they want on saying the reason why they wanted it was because the APO would allow for multiple residential.

Mr. Henn confirmed that was correct but given fluctuating market conditions there was a perception that the likely use was probably multi-family residential but they did not want to preclude office particularly down on the Christmas tree lot area but they didn't see it as likely as multiple residential as on the upper flat parts. What they really want to do is preserve their options.

Commissioner Ateljevich said that given the recent earthquake on the property, it makes her not want to put a lot of density there. Secondly, it is a mapped ridgeline. Also, the soils on the old gasoline station site are visibly falling apart. This is not an area where I think we should be looking for any kind of density. I don't see any point in wasting City money in trying to decide what the density might be. That is the applicant's job. We should complete we started three years ago which was a rezoning to the lowest possible density. The applicant always has the option to come back in with a good proposal and we can change our minds. But this way we are trying to design a property that we don't have all the tools for or money for in any great quantity. We are not designers; we are planners and we are trying to do something that we can't do intelligently. If we can't do it intelligently then I don't want any part of it. So I think we are just putting off the inevitable. We need those slope studies and need to apply them in terms of single family density. Then if or when the applicant wants to come in with a good, wonderful multiple or office, or whatever proposal then the City can look at it carefully and analyze it and see if it works.

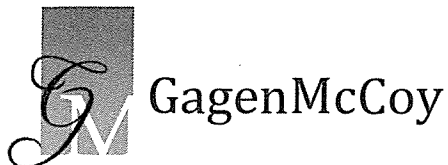
Vice Chair Mitchell felt they should stick with the residential zoning per the City Council's direction in 2001. We should leave off the expensive study we will never be able to afford and look at the slope calculations for our next meeting.

Chair Holt agreed the study would be too difficult and not within their scope. He is of the opinion that the City should be open to development and would like to keep their options open down the road. Perhaps the applicant can come forward with a plan that makes sense so that they can look at it.

Ms. Sinnette indicated since staff was directed specifically to prepare the studies, the direction would have to be rescinded. Staff will publicly notice the meeting, come back with the slope density study at the second meeting in January, re-present the three options available for determination, and forward the item to the City Council for consideration.

Commissioner Ateljevich moved and Commissioner Lovitt seconded to rescind the request to prepare conceptual design studies for the two properties that front on Pleasant Hill Road.

AYES: Ateljevich, Curtin-Tinley, Holt, Lovitt, and Mitchell
NOES: None
ABSENT: Chastain and Humann
ABSTAIN: None



The Law Offices of
**Gagen, McCoy, McMahon, Koss
Markowitz & Raines**
A Professional Corporation

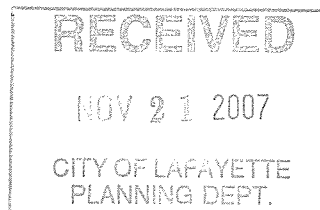
William E. Gagen, Jr.
Gregory L. McCoy
Patrick J. McMahon
Charles A. Koss
Michael J. Markowitz
Richard C. Raines
Barbara Duval Jewell
Robert M. Fanucci
Allan C. Moore
Stephen T. Buehl
Amanda Bevins
Martin Lysons
Katherine S. Zelazny
Lauren E. Dodge
Sarah S. Nix
Ross Pytlik
Brian P. Mulry
Amanda Beck

Of Counsel
Linn K. Coombs

November 21, 2007

Danville Office
279 Front Street
P.O. Box 218
Danville, California 94526-0218
Telephone: (925) 837-0585
Fax: (925) 838-5985

Napa Valley Office
The Offices At Southbridge
1030 Main Street, Suite 212
St. Helena, California 94574
Telephone: (707) 963-0909
Fax: (707) 963-5527



Please Reply To:

Danville

Steven Falk
City Manager
City of Lafayette
3675 Mt. Diablo Blvd., Suite 210
Lafayette, CA 94549

Re: Appeal of Decision of the Planning Commission
Eastern Deer Hill Road Design Study
November 15, 2007 Agenda, Item No. 9.A.

Dear Mr. Falk:

Our offices continue to represent Anna Maria Dettmer and the AMD Trust, owner of the properties under consideration in the above-referenced matter (the "AMD Parcels"). By this letter, we are appealing the following actions taken by the Planning Commission at its November 15, 2007 hearing: (i) rescinding its previous action requesting conceptual development studies for mixed-used and residential development on the AMD Parcels; and (ii) declaring without the benefit of appropriate study, that only single-family residences are appropriate for the AMD parcels. As the tape of the actual hearing is not yet available, we are unable to determine at this time whether there are further grounds for this appeal. Pursuant to discussions with staff, I am enclosing herewith a check for \$1,200 to cover the filing fee.

At a Minimum, Conceptual Studies are Necessary Before any Zoning Decision Can be Made on the AMD Parcels.

As we testified at the Planning Commission hearing on September 7, 2006 and in the letter from our office to the Planning Commission dated November 17, 2004 the City's current general plan requires the adoption of the Eastern Deer Hill Road Specific Plan. The general plan recognizes that rezoning is simply too crude a tool to deal with the

nuances of development on the AMD Parcels. For this reason, Program LU-13.2.2 requires the following:

Prepare through a community planning process an Eastern Deer Hill Road Specific Plan....

While staff recommended that the studies proceed, and the City Council had previously agreed to budget funds for the preparation of the study, the Planning Commission voted to reverse this staff recommendation and Council direction by voting not to initiate studies pursuant to a scope of work and alternatives arrived at on October 19, 2006. The Commission previously acknowledged that additional information was necessary to analyze the opportunities presented by the AMD parcels. By rescinding this request for additional study, the Commission deprives itself of a vital tool for analyzing all of the development opportunities available to it. These studies would have allayed concerns (to a degree) that the City was ignoring the general plan mandate for a specific plan and for "careful and detailed analysis of all the opportunities and constraints that will form the basis of future land use decisions." (See General Plan at p. I-23.) AMD and the surrounding community are now left without even that reassurance.

The Commission Considered Specific Zoning Issues on the AMD Parcels Without Proper Notice, in Violation of the Brown Act.

The agenda as posted on the City's website listed this Agenda item as the "Eastern Deer Hill Road Design Study." The item description read as follows: "Consider preparation of conceptual design studies for two properties located at 3233 Deer Hill Road (APN 232-150-028) and 1175 Pleasant Hill Road (APN 232-150-027)." The item title and description give no indication that the Commission would consider and make decisions pertaining to zoning and land use on the AMD Parcels. According to the description, the only issue under consideration was the preparation of conceptual design studies. The elimination of mixed-use zoning from consideration was clearly beyond the scope of the hearing as agendized. Therefore, neither the Dettmers nor the public had any opportunity whatsoever to participate in, prepare for, or contribute to the discussion. As a result, the Commission made its determination without the benefit of testimony, prepared or otherwise, from the people most affected by their decision. This is a clear violation of the spirit and intent of the Brown Act.

If this agenda item was intended to be a public hearing on the actual rezoning of the AMD parcels, all stakeholders should have been properly noticed to that effect. However, Anna Marie Dettmer never received any notice of any hearing. The scope of this hearing was to be limited to the consideration of entering into a contract to prepare a conceptual design study. Ms. Dettmer was not even noticed for that. As the AMD Trust

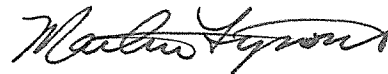
Steven Falk
November 21, 2007
Page 3

is the owner of the property, clearly they should receive notice on any City-initiated hearing that pertains directly and solely to their property.

Finally, as pointed out in our office's November 17, 2004 letter, no zoning determination can be made for the AMD properties unless and until the proper studies that area associated with a specific plan have been performed. No decision, including the decision to eliminate a potentially viable option for the property, can be made without such careful analysis. Making such a determination in a vacuum runs afoul of the municipal code, the general plan, and CEQA.

For all the reasons set forth above, we respectfully appeal the decision of the Planning Commission and ask for a hearing before the City Council. Further, we ask that the City Council direct staff not to proceed with any zoning change on the AMD Parcels until the Eastern Deer Hill Road Specific Plan has been drafted, consistent with the City's general plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin E. Lysons", with a stylized flourish at the end.

Martin E. Lysons

MEL:kra

cc: Christine Sinnette
Anna Maria Dettmer